



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

JOSEPHINE WEE,

Petitioner,

G.R. No. 202414

Present:

- versus -

VELASCO, JR., J., *Chairperson*,
PERALTA,
VILLARAMA, JR.,*
MENDOZA, and
LEONEN JJ.

FELICIDAD MARDO,

Respondent.

Promulgated:

June 4, 2014

x

x

DECISION

MENDOZA, J.:

This is a petition for review on *certiorari* under Rule 45 assailing the June 26, 2012 Decision of the Court of Appeals (CA), which reversed and set aside the September 4, 2009 Decision of the Regional Trial Court, Branch XVIII, Tagaytay City, Cavite (RTC), granting petitioner's "Application for Registration of Title."

Factual and Procedural Antecedents:

Respondent Felicidad Gonzales, married to Leopoldo Mardo, was granted a registered Free Patent No. (IV-2) 15284, dated April 26, 1979, covering Lot No. 8348, situated in Puting Kahoy, Silang, Cavite.

On February 1, 1993, respondent allegedly conveyed to petitioner, Josephine Wee, through a Deed of Absolute Sale,¹ a portion of Lot No. 8348 known as Lot No. 8348-B, for a consideration of P250,000.00 which was

* Designated Acting Member in view of the vacancy in the Third Division, per Special Order No. 1691 dated May 22, 2014.

¹ *Rollo*, p. 54.

fully paid. Respondent, however, refused to vacate and turn over the subject property claiming that the alleged sale was falsified.

On December 22, 1994, petitioner filed an Application for Original Registration of a parcel of land located at Barangay Putting Kahoy, Silang, Cavite, known as Lot No. 8349. Said application was amended on September 19, 1996, this time covering a parcel of land known as Lot 8348-B situated in Barangay Putting Kahoy, Silang, Cavite. Petitioner claimed that she is the owner of the said unregistered land by virtue of a deed of absolute sale.

On September 19, 1997, respondent filed her Opposition to the Amended Application alleging 1] that she is the true and lawful owner of the parcel of land which is the subject of the amended application; and 2] that petitioner's deed of absolute sale is surreptitious.

On October 28, 2000, respondent filed a Motion to Dismiss the Application alleging that the land described in the application was different from the land being claimed for titling. The motion was, however, denied. A motion for reconsideration and second urgent motion for reconsideration were subsequently filed by respondent, but both were denied by the RTC.

Thereafter, petitioner completed her presentation of evidence and filed a formal offer which was admitted by the RTC.

On June 10, 2003, during the pendency of the case, respondent managed to register the land in her name under Original Certificate of Title (*OCT*) No. OP-1840. Petitioner filed a Notice of *Lis Pendens* with the Registry of Deeds of Cavite on May 10, 2005 which was annotated on the title. A "Motion for Leave to File Supplemental Pleading and to Admit Attached Supplemental Complaint for Reconveyance" was filed by petitioner which was denied by the RTC on the ground that a motion for reconveyance was different from an application for registration of title.

Consequently, respondent presented her own evidence, through the testimony of her counsel, who testified that the parcel of land subject of the application for registration was the property she bought ten (10) years ago. Respondent, however, did not state from whom she bought it. As proof of her alleged ownership, she presented copies of tax declarations in the absence of any deed of sale in her favor.

On September 4, 2009, the RTC rendered a Decision² granting the application of petitioner. The dispositive portion of said decision reads:

² Id. at 145; penned by Acting Presiding Judge Emma S. Young.

WHEREFORE, judgment is hereby rendered granting the applicant, Josephine Wee, as qualified to register the subject land in her name, and the Administrator of LRA is hereby directed to issue the corresponding decree in her name based on the plan and technical description of said land as submitted by the applicant and the Register of Deeds of the Province of Cavite to issue title in her name.

SO ORDERED.

A motion for reconsideration was filed by respondent which was denied by the RTC. Hence, respondent appealed the decision before the CA, which case was docketed as CA-G.R. CV No. 96934.

On June 26, 2012, the CA handed down a Judgment³ *reversing* and *setting aside* the RTC decision. The decretal portion of the CA decision reads:

WHEREFORE, the appeal is GRANTED. The Decision, dated September 4, 2009, of the Regional Trial Court (Branch XVIII) of Tagaytay City, Cavite, in LRC No. TG-647 is SET ASIDE. Accordingly, applicant-appellee's Application for Original Registration of a parcel of land located at Barangay PutingKahoy, Silang Cavite, known as Lot No. 8349, Cad. Lot 042118-011719-D of Silang Cadastre, is hereby DENIED.

SO ORDERED.

The CA held, among others, that petitioner was not able to comply with the requirement of possession and occupation under Sec. 14 (1) of P.D. No. 1529. Her admission that the subject lot was not physically turned over to her due to some objections and oppositions to her title suggested that she was not exercising any acts of dominion over the subject property, an essential element in the requirement of possession and occupation contemplated under Sec. 14 (1) of P.D. No. 1529.

A copy of the decision was received by petitioner on July 2, 2012. On August 15, 2012, petitioner filed this subject petition for review challenging the CA decision.

Hence, this petition.

In advocacy of her petition, petitioner assigns the following

³ Id. at 15; penned by Associate Justice Jose C. Reyes, Jr., and concurred by Associate Justice Priscilla J. Baltazar-Padilla and Associate Justice Agnes Reyes-Carpio

ERRORS:**I.**

The Court of Appeals gravely erred and ruled contrary to law in not finding that petitioner is entitled to register the subject land under her name. Under the peculiar circumstances of this case, wherein petitioner's predecessor-in-interest unexpectedly and unjustifiably continued to be in physical possession of the subject property after the sale thereof to petitioner, the latter must be deemed to be in possession and occupation thereof through her predecessor-in-interest. Under the Public Land Act and Presidential Decree No. 1529, the period of possession of an applicant's predecessor-in-interest benefits and is credited in favor of the applicant.

II.

Moreover, petitioner was denied actual possession of the subject land by circumstances amounting to a fortuitous event. By express provision of Sec. 48(b) of the Public Land Act, such fortuitous event does not affect her vested right to register the property under her name.

III.

The Court of Appeals likewise seriously erred and ruled contrary to the law and to the evidence in not finding that petitioner's predecessor-in-interest, respondent Felicidad Mardo, had possession and occupation of the subject parcel of land under a bona fide claim of ownership since June 12, 1945, or earlier.

IV.

In view of the fact that the validity of the sale of the subject parcel of land to petitioner in 1993 was duly established before the trial court and affirmed by the Court of Appeals and considering further that the registration of the said land under respondents name was fraudulently secured, in order to avoid multiplicity of suits and to put an end to the long pending dispute between the parties, the Court of Appeals should have ordered the reconveyance of the subject parcel of land to the petitioner as its rightful owner.

Petitioner presents the theory that she must be deemed to have been in possession and occupation of the subject property through respondent, her predecessor-in-interest, who after the sale in 1993 and despite demands from her, unexpectedly and unjustifiably continued to occupy the property and refused to turn over physical possession to her. Petitioner argues that it is not

necessary that the person in possession should himself be the occupant as the occupancy can be held by another in his name.

Moreover, petitioner also seeks reconveyance of the subject property arguing that by virtue of its fraudulent registration, respondent became a trustee of an implied trust for her benefit, as its real owner, having validly acquired the same from respondent through an absolute deed of sale.

The Court's Ruling

The petition deserves no merit.

P.D. 1529, otherwise known as *Property Registration Decree*, governs the original registration proceedings of unregistered land. The subject application for original registration was filed pursuant to Sec. 14(1) of PD 1529, which provides the condition necessary for registration. Thus:

SEC 14. *Who may apply.*—The following persons may file in the proper Court of First Instance an application for registration of title to land, whether personally or through their duly authorized representatives:

(1) **Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a *bona fide* claim of ownership since June 12, 1945, or earlier.** (Emphasis supplied)

Based on these legal parameters, applicants for registration of title under Section 14(1) must sufficiently establish: (1) that the subject land forms part of the disposable and alienable lands of the public domain; (2) that the applicant and his predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the same; and (3) that it is under a *bona fide* claim of ownership since June 12, 1945 or earlier.⁴

The CA denied the application on the issue of open, continuous, exclusive, and notorious possession and occupation of the subject land. It was of the view that she could not have complied with the requirement of possession and occupation under Sec. 14 (1) of P.D. No. 1529 considering that she had admitted that it was not physically turned over to her. As she was not in actual and physical possession, she could not have exercised any acts of dominion over the subject property which was essential to the requirement of possession and occupation contemplated under Sec. 14 (1) of P.D. No. 1529.

⁴ *Republic v. Manimtim*, G.R. No. 169599, March 16, 2011, 645 SCRA 520, 533-534.

A more important consideration, however, is that the subject land is already registered under OCT No. OP-1840 (Patent No. 042118-03-6111) of the Registry of Deeds of Cavite, under the name of respondent Felicidad Gonzales.

In the case of *Republic vs. Umali*,⁵ this Court ruled that once a patent is registered and the corresponding certificate of title is issued, the land ceases to be part of public domain and becomes private property over which the Director of Lands has neither control nor jurisdiction. A public land patent, when registered in the corresponding Register of Deeds, is a veritable Torrens title, and becomes as indefeasible upon the expiration of one (1) year from the date of issuance thereof. Said title, like one issued pursuant to a judicial decree, is subject to review within one (1) year from the date of the issuance of the patent. This rule is embodied in Section 103 of PD 1529, which provides that:

Section 103. *Certificates of title pursuant to patents.* – Whenever public land is by the Government alienated, granted or conveyed to any person, the same shall be brought forthwith under the operation of this Decree. x x x **After due registration and issuance of the certificate of title, such land shall be deemed to be registered land to all intents and purposes under this Decree.** (Emphasis supplied)

Accordingly, respondent's registered patent in the corresponding Registry of Deeds is a veritable Torrens title and becomes as indefeasible as a Torrens title upon the expiration of one (1) year from the date of its issuance.⁶

For said reason, the order of the RTC directing the Administrator of LRA to issue a corresponding decree in petitioner's name is null and void. A land registration court has no jurisdiction to order the registration of land already decreed in the name of another in an earlier land registration case. A second decree for the same land would be null and void, since the principle behind the original registration is to register a parcel of land only once.⁷

Verily, once a title is registered, as a consequence either of judicial or administrative proceedings, the owner may rest secure, without the necessity of waiting in the portals of the court sitting in the *mirador de su casa* to avoid the possibility of losing his land.⁸ The certificate of title cannot be defeated by adverse, open and notorious possession. Neither can it be defeated by prescription. As provided under Sec. 47 of PD 1529, no title to

⁵ 253 Phil. 732 (1989).

⁶ *The Director of Lands v. De Luna*, 110 Phil. 32 (1960).

⁷ *Spouses Laburada v. Land Registration Authority*, 350 Phil. 779, 790-791 (1998).

⁸ *Salao, et al. v. Salao*, 162 Phil. 116 (1976).

registered land in derogation of the title of the registered owner shall be acquired by prescription or adverse possession.

*A Certificate of Title Not
Subject to Collateral Attack*

Petitioner argued that the rule on indefeasibility of title does not attach to titles secured by fraud and misrepresentation. In this case, she alleged that the respondent fraudulently registered the subject property under her name after she (respondent) had already sold a portion thereof to her (petitioner). By virtue of the deed of sale, petitioner insists that she is considered to be the real owner of the subject parcel of land.

The Court finds no merit in petitioner's argument. It is settled in this jurisdiction that the issue of the validity of title can only be assailed in an action expressly instituted for such purpose.⁹ A certificate of title cannot be attacked collaterally. This rule is provided under Section 48 of PD 1529 which states that:

SEC. 48. *Certificate not subject to collateral attack.* – A certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or canceled except in a direct proceeding in accordance with law. (Emphasis supplied)

In *Lagrosa v. Court of Appeals*,¹⁰ it was stated that it is a well-known doctrine that the issue as to whether title was procured by falsification or fraud as advanced by petitioner can only be raised in an action expressly instituted for the purpose. A Torrens title can be attacked only for fraud, within one year after the date of the issuance of the decree of registration. Such attack must be direct, and not by a collateral proceeding. The title represented by the certificate cannot be changed, altered, modified, enlarged, or diminished in a collateral proceeding.

In this case, the petitioner is contesting the indefeasibility of title on the ground of fraud and misrepresentation. Applying the abovementioned doctrine, even assuming that the petitioner's allegations are true, the same are considered as collateral attacks, and such must be raised in an action expressly instituted for such purpose and in a proper proceeding.

Thus, in *Carvajal v. Court of Appeals*,¹¹ it was ruled that an application for registration of an already titled land constitutes a collateral attack on the existing title. The title may be challenged only in a proceeding for that purpose, not in an application for registration of a land already

⁹ *Ingusanl, Miguel v. Heirs of Aureliano I. Reyes*, 558 Phil. 60 (2007), citing *Caraan v. Court of Appeals*, 551 Phil. 172 (2005); and *Spouses Apostol v. Court of Appeals*, 476 Phil. 414 (2004).

¹⁰ *Lagrosa v. Court of Appeals*, 371 Phil. 238 (1999).

¹¹ 345 Phil. 592 (1997).

registered in the name of another person. After one year from its registration, the title is incontrovertible and is no longer open to review.

*Remedy of the petitioner is
to file a separate proceeding
such as an action for specific
performance or for reconveyance*

Petitioner further argues that considering the registration of the said land under respondent's name was fraudulently secured, in order to avoid multiplicity of suits and to put an end to the long pending dispute between the parties, the courts below should have ordered the reconveyance of the subject land to her as its rightful owner.

Petitioner advances the theory that by virtue of the fraudulent registration of a subject property, respondent is a trustee of an implied trust for her benefit, being the real owner of the subject property, as she had validly acquired the same from respondent through an absolute deed of sale.

Petitioner's argument fails to persuade. The issue of fraudulent alienation raised in the second application for registration of the subject property is collateral attack which should be directly raised in a separate proceeding filed for such purpose. It cannot be entertained in this proceeding. In several cases, the Court has ruled that an attack is indirect or collateral when, in an action to obtain a different relief, an attack on the judgment or proceeding is nevertheless made as an incident thereof.¹²

The RTC was, thus, correct in denying petitioner's "Motion for Leave to File Supplemental Pleading and to Admit Attached Supplemental Complaint For Reconveyance." Allowing it would not have been permissible because the application for original registration of title over a parcel of land already registered is a collateral attack itself. It is settled that an application for registration of a parcel of land already covered by a Torrens title is actually a collateral attack, not permitted under the principle of indefeasibility of a Torrens title.¹³

Registration, however, does not deprive an aggrieved party of a remedy in law. What cannot be collaterally attacked is the certificate of title and not the title or ownership which is represented by such certificate. Ownership is different from a certificate of title. The fact that a person was able to secure a title in his name did not operate to vest ownership upon him of the subject land. Registration of a piece of land under the Torrens System does not create or vest title, because it is not a mode of acquiring ownership.

¹² *Sampaco v. Lantud*, G.R. No. 163551, July 18, 2011, 654 SCRA 54.

¹³ *Fil-Estate Management v. Trono*, 518 Phil. 8, 14-15 (2006).

A certificate of title is merely an evidence of ownership or title over the particular property described therein. It cannot be used to protect a usurper from the true owner; nor *can it be used as a shield for the commission of fraud: neither does it permit one to enrich himself at the expense of others.* Its issuance in favor of a particular person does not foreclose the possibility that the real property may be co-owned with persons not named in the certificate, or that it may be held in trust for another person by the registered owner.¹⁴

The remedy of the petitioner is to file a separate proceeding or action to protect her alleged interest. As she claimed that she bought the subject property for value from the respondent as evidenced by a deed of sale, she can file an action for specific performance to compel the respondent to comply with her obligation in the alleged deed of sale and/or an action for reconveyance of the property. She can also file an action for rescission. Needless to state, petitioner must prove her entitlement because the respondent claims that the sale was falsified.

Reconveyance is based on Section 55 of Act No. 496, as amended by Act No. 3322, which states that in all cases of registration procured by fraud the owner may pursue all his legal and equitable remedies against the parties to such fraud, without prejudice, however, to the rights of any innocent holder for value of a certificate of title.¹⁵ It is an action *in personam* available to a person whose property has been wrongfully registered under the Torrens system in another's name.¹⁶ It does not seek to set aside the decree but, respecting it as incontrovertible and no longer open to review, seeks to transfer or reconvey the land from the registered owner to the rightful owner.¹⁷ Reconveyance is always available as long as the property has not passed to an innocent third person for value.^{18,19}

WHEREFORE, the petition is hereby **DENIED**, without prejudice to any remedial action by the petitioner to protect her claimed interest.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

¹⁴ *Naval v. Court of Appeals*, 518 Phil. 271, 282-283 (2006).

¹⁵ *Heirs of Lopez, Sr. v. Hon. Enriquez*, 490 Phil. 89 (2005).

¹⁶ *Pacete v. Asotigue*, G.R. No. 188575, December 10, 2012, 687 SCRA 580.

¹⁷ *Director of Lands v. Register of Deeds*, G.R. No. L-4463, March 24, 1953, 92 SCRA 831.

¹⁸ *Heirs of Eugenio Lopez, Sr. v. Hon. Alfredo Enriquez*, 490 Phil. 90 (2005).

WE CONCUR:



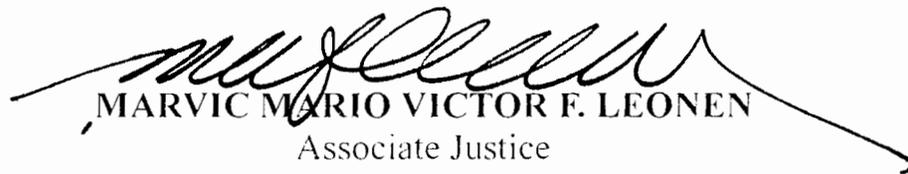
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice



MARTIN S. VILLARAMA, JR.
Associate Justice



MARVIC MARIO VICTOR F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice